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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/033,121	10/23/2001	Robert L. Snyder	9437	7080

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EXAMINER

RUDY, ANDREW J

ART UNIT PAPER NUMBER

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Please find below and/or attached an Office communication concerning this application or proceeding.



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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/033,121
Filing Date: October 23, 2001
Appellant(s): SNYDER, ROBERT L.

James D. Wood
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed June 7, 2006 appealing from the Office action mailed June 2, 2005.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

5426282	Humble	6-1995
4914746	Nishi et al.	4-1990
6,278,492	Nakamura	8-2001

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Humble (U.S. 5,426,282) in view of Nishi et al. (U.S. 4,914,746). Humble discloses a self service checkout terminal 32, a scale, 44 and a digital video camera 52 whereby the image is displayed and monitored by store personal. Humble is silent as to whether the camera has component output. Nishi teaches a digital camera with component output.

Therefore it would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify Humble as taught by Nishi to include

component output. Such a modification would have increased the quality of the video image.

Claims 1-21 are alternatively rejected under 35 U.S.C. §103(a) as being unpatentable over Humble (U.S. 5,426,282) in view of Nakamura (U.S. 6,278,492 B1).

Humble discloses a self service checkout terminal (32) with a scale (44), and a digital video camera (52) whereby the image is displayed and monitored by store personal. Humble is silent as to whether the camera has component output. Nakamura teaches a digital camera with component output.

Therefore it would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify Humble as taught by Nakamura to include component output. Such a modification would have increased the quality of the video image.

(10) Response to Argument

Appellant's Arguments regarding Humble, in view of Nishi, have been reviewed, but are not convincing. In short, Humble discloses Appellant's invention. Appellant's Argument from page 9, last paragraph, is noted, but not convincing. The claim language does not stipulate in any way a specific sequence of events. Thus, the "acquiring" step need not be triggered by the "obtaining" step. To infer such is not supported by the claims, as recited. Humble discloses from cols. 3-4, lines 56-15, Appellant's claimed invention. The Examiner does not agree that Humble does not disclose a casual relationship

between the weighing and imaging. Clearly, Humble does show a direct relationship between the weighing and imaging, e.g. cols. 3-4, lines 56-15. There is a period of time that the product placed upon the scale is left on for a sufficient period of time for a data image to be generated of the product. A UPC label need not be present for the data image to be generated. To assert otherwise is to misconstrue what Humble clearly teaches. Appellant's Arguments with regards to Nishi are noted. However, Appellant does not dispute the component aspect of Nishi incorporated with Humble. Thus, it is deemed conceded that it would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify Humble as taught by Nishi to include component output. Such a modification would have increased the quality of the video image.

Appellant's Arguments regarding Humble, in view of Nakamura, have been reviewed, but are not convincing. In short, Humble discloses Appellant's invention. Appellant's Argument from page 18 is noted, but not convincing. The claim language does not stipulate in any way a specific sequence of events. Thus, the "acquiring" step need not be triggered by the "obtaining" step. To infer such is not supported by the claims, as recited. Humble discloses from cols. 3-4, lines 56-15, Appellant's claimed invention. The Examiner does not agree that Humble does not disclose a casual relationship between the weighing and imaging. Clearly, Humble does show a direct relationship between the weighing and imaging, e.g. cols. 3-4, lines 56-15. There is a period of time

that the product placed upon the scale is left on for a sufficient period of time for a data image to be generated of the product. A UPC label need not be present for the data image to be generated. To assert otherwise is to misconstrue what Humble clearly teaches. Appellant's Arguments with regards to Nakamura are noted. However, Appellant does not dispute the component aspect of Nakamura incorporated with Humble. Thus, it is deemed conceded that it would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify Humble as taught by Nishi to include component output. Such a modification would have increased the quality of the video image.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Andrew Joseph Rudy



Conferees:

Hyung Sub Sough, SPE AU 3628 

Alexander Kalinowski, SPE AU 3627 